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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,891	01/02/2002	Jeffrey T. Borenstein	62030(51588)	8813
71284	7590	09/27/2007	EXAMINER	
EDWARDS ANGELL PALMER & DODGE LLP			NAFF, DAVID M	
P.O. BOX 55874			ART UNIT	
BOSTON, MA 02205			PAPER NUMBER	
			1657	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/038,891	Applicant(s) BORENSTEIN ET AL.	
	Examiner David M. Naff	Art Unit 1657	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See attachment. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 1, 5-24, 39-44, 46 and 59.
Claim(s) objected to: _____.
Claim(s) rejected: 25, 26, 28-32, 38, 45, 47, 48, 49, 50, 51-58 and 60.
Claim(s) withdrawn from consideration: 27 and 33-37.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.



David M. Naff
Primary Examiner
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ATTACHMENT TO FORM PTOL-303

(a) the amendments to claims 25, 28, 32, 38, 45 and 58 raise new issues for consideration.

(b) the amendments to claims 28, 32, 38 and 45 raise the issue of new matter. Steps in (a) of claim 25, in (C) of claims 28 and 32, in (iii) in claim 58, a diameter as in claim 38 and a height and width as in claim 45 are not found in the specification.

The following amendments to the claims are suggested.

Claim 25,

replace (a) with --- fabricating at least a first layer comprised of a polymer scaffold suitable for attachment and culturing of animal cells and having a pattern of channels therein, wherein the at least a first layer is fabricated by forming a mold from a semiconductor substrate material using a photoresist processing technique that includes coating the semiconductor substrate material with a photoresist, and forming a pattern in the photoresist, and then casting the at least a first layer on the mold, and ---.

Claim 28,

line 3, cancel "suitable",

replace (C) with --- wherein the first layer is formed by forming a mold from a substrate material using a photoresist

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processing technique that includes coating the substrate material with a photoresist, and forming a pattern in the photoresist, and then casting the first layer on the mold, wherein the first comprises an elastomer, and ---.

Claim 32,

replace (C) with --- wherein the first layer is formed by forming a mold from a semiconductor substrate material using a photoresist processing technique that includes coating the semiconductor substrate material with a light sensitive photoresist, and forming a pattern in the photoresist by exposing the photoresist to short-wavelength light through semi-transparent mask, and then casting the first layer on the mold, and ---.

Claim 38, line 2, change "diameter" to --- width ---.

Claim 45, line 2, "height and", and cancel "that are" and insert --- of ---.

Claim 47,

line 1, after "wherein" insert --- forming ---, and canceled "is formed by" and insert --- includes ---.

Claim 48,

line 1, after "wherein" insert --- forming ---, and canceled "is formed by" and insert --- includes ---,

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line 2, cancel "resist", first occurrence, and insert --- the photoresist ---, and cancel "resist", second occurrence, and insert --- photoresist ---.

Claim 51, line 1, cancel "polymer scaffold" insert --- first layer ---.

Claim 55, change "32" to --- 28 ---.

Claim 58,

Replace (iii) with --- wherein the at least a first layer is fabricated by forming a mold from a semiconductor substrate material using a photoresist processing technique that includes coating the semiconductor substrate material with a photoresist, and forming a pattern in the photoresist, and then casting the at least a first layer on the mold, and ---.

Claim 60, line 2, cancel "microfluidic pattern" and insert --- pattern of microchannels ---.

Cancel withdrawn claims 27 and 33-37.

Since the present amendment has not been entered, the above amendments should be made to the claims the present amendment is directed, i.e. the claims before final rejection. The amendment should include changing "200" to --- 30-200 --- in (iii) of claim 25, and in claims 38 and 45, and canceling claim 50.